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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,149	08/17/2000	Mark Gary Weinberg	CL1375 US NA CIP	4732

23906 7590 04/29/2002

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EXAMINER

SHOSHO, CALLIE E

ART UNIT PAPER NUMBER

1714

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DATE MAILED: 04/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/641,149		Applicant(s) WEINBERG ET AL.	
Examiner Callie E. Shosho		Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2002 and 11 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. All outstanding rejections except for those described below are overcome by applicants' amendment filed 1/15/02.

Information Disclosure Statement

2. It is noted that Sekutowski (U.S. 4,740,538) has been stricken from the IDS filed 2/11/02 as redundant given that it was already cited on PTO-892 mailed with the office action of 8/15/01, Paper No.4.

Election/Restrictions

3. In light of applicants' cancellation of non-elected claims 16-30 in the amendment filed 1/15/02, the restriction requirement made in Paper No. 4 is hereby withdrawn.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 has been amended to recite that “polymer having a flexural modulus of at least about 1130 MPa”. It is the examiner’s position that this change fails to satisfy the written description requirement under the cited statute since there does not appear to be a written description requirement of the phrase “polymer having a flexural modulus of at least about 1130 MPa” in the application as originally filed, *In re Wright*, 866 F.2d 422, 9 USPQ2d 1649 (Fed. Cir. 1989) and MPEP 2163.

As support for the insertion of the above phrase into claim 1, applicants point to Table 1 on page 2 of the present specification. However, this appears to recite values of flexural modulus associated with polymers in the prior art, not the present invention. In fact, the Table is found under the section “Technical Background of the Invention”. Further, the above cited phrase states that the polymer has a flexural modulus. However, from Table 1, it appears that the flexural modulus is associated with a polymer which has been modified with some filler, plasticizer, etc. Additionally, while Table 1 discloses values of 1130-8620 MPa, this does not provide support for reciting that the flexural modulus is “at least 1130 MPa” which includes values of 9000 MPa, 10,000 MPa, etc. for which there is no support in Table 1.

It is noted that Table 4, for instance, of the present specification does disclose values of the flexural modulus. However, these values appear to be associated with the composition which comprises polymer, not the polymer itself. Additionally, these values of flexural modulus do not support the recitation that the flexural modulus “at least 1130 MPa” which includes values of 9000 MPa, 10,000 MPa, etc. for which there is no support in the present specification.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekutowski (U.S. 4,740,538) in view of Moss (U.S. 4,698,372).

The rejection is adequately set forth in paragraph 13 of the office action mailed 8/15/01, Paper No. 4, and is incorporated here by reference.

Further, given that Sekutowski disclose polymers identical to those presently claimed, it is clear that such polymers would intrinsically possess flexural modulus as presently claimed.

8. Claims 1-6, 9-12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luders et al. (U.S. 4,456,710) in view of Moss (U.S. 4,698,372).

The rejection is adequately set forth in paragraph 14 of the office action mailed 8/15/01, Paper No. 4, and is incorporated here by reference. effects to the composition (col. 5, lines 21-23).

Further, given that Luders et al. disclose polymers identical to those presently claimed, it is clear that such polymers would intrinsically possess flexural modulus as presently claimed.

9. Claims 1-10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al. (U.S. 5,281,379) in view of Moss (U.S. 4,698,372) and Sekutowski (U.S. 4,740,538).

The rejection is adequately set forth in paragraph 15 of the office action mailed 8/15/01, Paper No. 4, and is incorporated here by reference.

Further, given that Noguchi et al. disclose polymers identical to those presently claimed, it is clear that such polymers would intrinsically possess flexural modulus as presently claimed.

Response to Arguments

10. Applicants' arguments filed 1/15/02 have been fully considered but they are not persuasive.

Specifically, applicants argue that none of the cited references disclose polymer with flexural modulus as presently claimed.

However, given that Sekutowksi et al., Luders et al., and Noguchi et al. each disclose polymer identical to that presently claimed, it is the examiner's position that the polymers intrinsically possess the flexural modulus as presently claimed.

Applicants argue that while Sekutowski disclose flexural modulus of the composition, there is no recitation of the flexural modulus of the polymer.

However, although there is no explicit disclosure in Sekutowski of the flexural modulus of the polymers utilized, given that Sekutowski disclose polymer such as nylon 66, polyethylene terephthalate, and polybutylene terephthalate which are identical to those presently claimed, it is clear that such polymers would intrinsically possess the same flexural modulus as presently claimed.

Similarly, given that Noguchi et al. disclose the use of nylon 6, nylon 66, polyethylene terephthalate, and polybutylene terephthalate as presently claimed and Luders et al. disclose the use of polyoxymethylene as presently claimed, it is the examiner's position, absent clear and

convincing evidence to the contrary, that the polymers would intrinsically possess the same flexural modulus as presently claimed.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 703-305-0208. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Callie Shosho
April 27, 2002

Sam Jagannathan
WASU JAGANNATHAN
SUPERVISORY PATENT EXAMINER
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